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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,589	01/21/2004	Judy A. Martin	23380.01	1124

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EXAMINER

CARTER, MONICA SMITH

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,589

Applicant(s)

MARTIN, JUDY A. *cn*

Examiner

Monica S. Carter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chelius (4,720,123) in view of Crooks et al. (D411,230) and further in view of McCormack (D480,104).

Chelius discloses a customized, personalized calendar for recording birthdays and other annual dates comprising a single sheet (22) twelve-month chart, the sheet having a removable section (30) for including information (34), whereby the chart provides a permanent record of annually recurring events (as seen in information section 26).

Chelius discloses the claimed invention except for the twelve-month chart having vertical and horizontal parallel arranged intersecting lines imprinted thereon defining a plurality of memorandum spaces for permanently recording a date of an event. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any desired indicia on the chart, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In*

re Gulack, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of calendar does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate which is required for patentability.

Furthermore, Crooks et al. disclose a colored calendar sheet having a single sheet twelve-month chart having vertical and horizontal parallel arranged intersecting lines imprinted thereon defining a plurality of memorandum spaces for permanently recording a date of an event (as seen in the figure). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Chelius' calendar to include vertical and horizontal parallel arranged intersecting lines, as taught by Crooks et al., to provide an alternative arrangement for the calendar that enables the user to record information in the boxes created by the vertical and horizontal intersecting lines.

Chelius, as modified by Crooks et al., discloses the claimed invention except for a monthly calendar joined to the chart.

McCormack discloses a calendar sheet comprising a single sheet twelve-month chart having a monthly calendar joined to the chart (as seen in figure 1 the month of January is displayed having the other months surrounding the January calendar). Therefore, it would have been obvious to one having ordinary skill in the art at the time

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of the invention to modify Chelius' calendar to include a monthly calendar, as taught by McCormack, to provide an alternative printed arrangement for the calendar sheet.

Regarding claims 2-6 and 17, Chelius, as modified by Crooks et al. and McCormack, discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claim(s). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any desired indicia on the calendar sheet, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of calendar sheet does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate which is required for patentability.

Regarding claim 10, Chelius, as modified by Crooks et al. and McCormack, discloses the chart being made from a material having a surface capable of retaining indelible ink (see column 2, lines 55-60 of Chelius).

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3. Claims 7, 9 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chelius in view of Crooks et al. and McCormack and further in view of Stawski, II (5,573,404).

Regarding claims 7, 9 and 15, Chelius, as modified by Crooks et al. and McCormack, discloses the claimed invention except for the calendar having a transparent protective cover disposed over the chart.

Stawski, II discloses a device comprising a printable, flexible single sheet (11) having spaces for permanently recording information (for example, the chart having the days of the week – Saturday – Friday) and a transparent plastic protective cover disposed over the display (see column 2, lines 43-56). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the calendar sheet of Chelius to include a transparent plastic cover, as taught by Stawski, II, to protect the calendar sheet from damage and/or deterioration.

Regarding claims 11 and 16, Chelius, as modified by Crooks et al. and McCormack disclose the claimed invention except for the calendar having an erasable surface.

Stawski, II discloses the device being laminated with a plastic that can be wiped off with a damp cloth or otherwise erased if marked with a marking instrument (see column 2, lines 43-56). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the calendar sheet of Chelius to include an erasable surface, as taught by Stawski, II, to enable repeated use of the calendar sheet.

Regarding claims 12 and 13, Chelius, as modified by Crooks et al., McCormack and Stawski, II, discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claim(s). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any desired indicia on the calendar sheet, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of calendar sheet does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate which is required for patentability.

Regarding claim 14, Chelius, as modified by Crooks et al. and McCormack disclose the claimed invention except for the monthly calendar being made from whiteboard.

Stawski, II discloses the display being made from whiteboard, since the display is a laminated erasable sheet as set forth in the above rejections to claims 11 and 16. Therefore, it would have been obvious to one having ordinary skill in the art at the time

of the invention to modify Chelius' invention to provide the calendar being made from whiteboard, as taught by Stawski, II, to enable repeated use of the calendar sheet.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chelius in view of Crooks et al., McCormack and Stawski, II and further in view of Selman (4,852,282).

Chelius, as modified by Crooks et al., McCormack and Stawski, II, discloses the claimed invention except for the protective cover being made from glass.

Selman discloses a magnetic calendar frame comprising a calendar cover (12) constructed of transparent plastic material or glass (see column 2, lines 51-53). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the calendar sheet of Chelius to include a glass protective cover, as taught by Selman, to provide a rigid, protective encasement for the calendar.

5. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chelius in view of Crooks et al. and McCormack and further in view of Dubner et al. (5,016,917).

Chelius, as modified by Crooks et al. and McCormack, discloses the claimed invention except for the calendar having a plurality of attachment members disposed on the rigid backing of the calendar, wherein the attachment members are brackets or hooks.

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Dubner et al. disclose a calendar comprising a rigid backing (20), wherein the calendar could be mounted to a wall "by passing nails, hooks or the like attached to the wall through holes 22 and 24....A mounting bracket could also be provided with the calendar with projecting pins or hooks spaced to pass through holes 22 and 24... to a wall" (see column 3, lines 44-54). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide the calendar of Chelius with mounting hooks or brackets, as taught by Dubner et al., to enable the calendar to be attached to a vertical surface.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose calendars.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (703) 305-0305. The examiner can normally be reached on Monday-Thursday (6:30 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 3, 2004

Monica S. Carter
MONICA S. CARTER
PRIMARY EXAMINER